

Message Text

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ACTION L-03

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 8697

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FOR ARA - MR. FISHLOW; L/ARA - MR. GANTZ

EO 11652: N/A

TAGS: EINV, EIND, EMIN, PFOR, PE

SUBJECT: MARCONA - FREIGHT CONTRACT PROBLEMS

REF: LIMA 1099, STATE 26136

1. DR. HERNANDO GALDOS, MARCONA LEGAL REPRESENTATIVE, AND THOMAS KEHOE, MARCONA ADVISOR, DISCUSSED AT LENGTH WITH EMBOFF FEBRUARY 5 OUTSTANDING PROBLEMS REGARDING FREIGHT CONTRACT, AS WELL AS PROBLEMS REGARDING ARGENTINA ORE SHIPMENTS, AND PRESENT STATUS OF MINE OPERATIONS.

A. FREIGHT AND PORT CHARGES: DR. GALDOS EXPLAINED THAT NEW FREIGHT AND PORT CHARGES ARE CONTAINED IN CHAPTER II (ARTICLES 2.01-2.08) OF MINISTERIAL RESOLUTION NO. 0018-75-TC-AC. (RELEVANT TEXT BEING SENT SEPTTEL.) DR. GALDOS NOTED THAT AVERAGE TOTAL COST INCREASE (DEPENDENT ON SIZE OF VESSEL) DUE TO NEW CHARGES WOULD BE APPROXIMATELY U.S. THIRTEEN CENTS PER TON. HE THEN REITERATED MARCONA POSITION THAT NOTWITHSTANDING LANGUAGE OF THE SECOND CHAPTER OF THE MINISTERIAL RESOLUTION WHICH READS: QUOTE CHARGES FOR SHIPS SERVICES -- INCLUDES THE APPLICABLE SYSTEM OF CHARGES FOR SHIPS WHICH USE THE SERVICES AND FACILITIES OF RIVER AND MARITIME OPERATIONAL ZONES END QUOTE WHICH INCORPORATES NEW CHARGES INTO LAW (SEPTTEL),

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MARCONA MAINTAINS THAT ARTICLE 2.D OF THE CONTRACT OF

AFFREIGHTMENT SUPERSEDES THE MINISTERIAL RESOLUTION.
DR. GALDOS AND MR. KEHOE REPEATED TO COV THEIR OPPOSITION
TO MARCONA PAYING THESE CHARGES YESTERDAY.

B. CONFUSION OVER PAYMENTS MARCONA MADE UNDER PROTEST:
DR. GALDOS THEN NOTED THAT FURTHER MISSPOKE DURING THE U.S.
TEAM-MARCONA-CPV MEETING JANUARY 29 WHEN HE SAID THAT MARCONA
HAD PAID THE NEW PORT CHARGES UNDER PROTEST FOR THE PERIOD
JULY 1-JULY 24, 1975. IN FACT, MARCONA DID NOT IAS ESE

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STS. RATHER MARCONA PAID UNDER PROTEST DURING PERIOD
JULY 1-JULY 24 CERTAIN "CABOTAGE CHARGES" (INTERCOASTAL FREIGHT)
FOR SHIPMENTS OF ORE FROM SAN JUAN TO CHIMBOTE. PREVIOUS
INLAND FREIGHT CHARGES, PRIOR TO PROMULGATION OF MINISTERIAL
RESOLUTION WERE 23 SOLES PER TON. MINISTERIAL RESOLUION
INCREASED THESE CHARGES TO 65 SOLES PER TON AND U.S. 24 CENTS PER TON
(ARTICLE 3.07, POINT 2.28 IN TEXT OF
RESOLUTION). DR. GALDOS STRESSED THAT IT IS IMPORTANT
THAT THIS POINT BE MADE CLEAR TO BOTH DR. FISHLOW AND
TO MR BRADFIELD. HE ALSO SAID THAT HE HAD GONE OVER THIS GROUND
WITH CAPTAIN RUIS DE CASTILLA OF CPV YESTERDAY TO MAKE
SURE THAT CPV ALSO UNDERSTOOD THE BASIS FOR MARCONA'S
PROTESTS IN JULY, 1975.

C. CURRENT MARCONA PROTEST: THE "MARCONAFLO MERCHANT"
PICKED UP 43,000 TONS OF ORE LAST WEEK FOR SHIPMENT OT SOUTH
KOREA. AT THAT ITME, MARCONA WAS CHRGED WHAT IT CONSIDERS TO BE AN EX
CESS
OF \$56470T UNDER THE NEW PORT AND DOCKING CHARGE SCHEDULE.
THE CAPTAIN OF THE VESSEL SIGNED A DOCUMENT CERTIFYING THESE
EXCESS CHARGES UNDER PROTEST SINCE MARCONA DOES NOT BELIEVE
SHOULD PAY THIES ECESS COSTS.

D. LACK OF SALES OF ORE: - MARCONA HAS SCHEDULED A
SECOND SHIP TO BEGIN TRAVEL TO SAN JUAN, BUT AS OF THIS DRAFTING
IS IS NOT CERTAIN THAT SHIP WILL HAVE ORE TO CARRY BECAUSE
CPV HAS NOT YET CONFIRMED SALE. KEHOE ALSO SAID THAT
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FUTURE SALES LOOK LESS BRIGHT THAN WE HAD UNDERSTOOD.
ACCORDING KEHOE, HEIRROPERU CURRENTLY BELIEVES, AT BEST, THAT
IT MIGHT BE ABLE TO MARKET 3.5 MILLION TONS BY MARCH, 1977.
HE SAID HIERROPERU ALSO HAS STOCKPILED OVER 3 MILLION TONS OF ORE,
RATHER THAN THE TWO MILLION FIGURE WE RECEIVED LAST WEEK.

E. THE ARGENTINE CONNECTION: MINPECO IS
STANDING FIRM IN IT S VIEW THAT MARCONA SHOULD NOT CARRY

HEIRROPERU CARGO TO ARGENTINE. ACCORDING TO MARCONA OFFICIALS, ELMA, THE ARGENTINE STATE SHIPPING LINE HAS WORKED OUT A GOVERNMENT-TO-GOVERNMENT AGREEMENT. IN ADDITION, THE PERUVIANS ARE PLANNING TO USE SMALL (12-15,000 TON VESSELS) WHICH MARCONA MOST LIKELY COULD NOT FURNISH ON TIME. MARCONA OFFICIALS DO NOT BELIEVE THAT MARCONA CARRIERS WILL BE ABLE, THEREFORE, TO GET SHIPPING CONTRACTS FOR THE ARGENTINE TRAFFIC.

2. COMMENT: AFTER USG TEAM CONSULTS WITH BRADFIELD, WHOM WE UNDERSTAND HAS MOST OF THE RELEVANT DOCUMENTATION, WE WILL BE GLAD TO DISCUSS DETAILS OF THE CONTRACTS FURTHER WITH MARCONA OFFICIALS AS WARRANTED.
DEAN

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